

Applications for Statutory Wills, Gifts, Settlements and other dealings with P's property

Who should read this guidance?

This leaflet explains how to make an application for a statutory will, codicil, gift, or other settlement of property.

For further detailed guidance about making an application, refer to Court of Protection practice direction 9F available from the website www.gov.uk/court-of-protection

The Office of the Public Guardian (OPG) also publishes a helpful guide for deputies about making gifts. You can obtain this guide from the OPG on 0300 456 0300

How to apply

The following forms must be completed and signed:

- COP1 Application form
- COP1C Annex C: Supporting information for applications relating to a statutory will, codicil, gift, or other settlement of property
- COP3 Assessment of capacity

You must also provide all the additional information specified in form COP1C and practice direction 9F.

Please note the following:

Any application for a statutory will, gift, settlement, etc must be free standing and separate from, say, an application for the appointment of a deputy.

Evidence of capacity must relate to the decision in question (e.g. capacity to make a will, or make a gift). It will not usually be acceptable to rely on evidence submitted with an earlier application to the court

In most cases, the Court will join the person who lacks capacity as a party to the proceedings and will invite the Official Solicitor to act as the litigation friend.

The general rule is that costs in proceedings for applications relating to property and affairs (such as applications for statutory wills, gifts and settlements)

are paid out of the estate the person who lacks capacity. This is only a general rule and the court may make an order that someone else should pay. Costs will include the costs of the Official Solicitor and he is happy to provide details of his charges once he has accepted appointment as litigation friend.

The Official Solicitor recommends making early contact with his office to discuss the application and you can find his details on his website: www.gov.uk/government/organisations/official-solicitor-and-public-trustee

Court fees

An application fee is payable when you make an application. Cheques should be made payable to HM Courts & Tribunals Service (HMCTS).

For further details, please see booklet COP44 - Court of Protection fees available from the website: www.gov.uk/court-of-protection.

Disclaimer

Court of Protection staff cannot give legal advice. If you need legal advice, please contact a solicitor or your local Citizens Advice Bureau. Information in this guidance is believed to be correct at the time of publication; however, we do not accept any liability for any error it may contain.

If you need further help with your application, please check the website: www.gov.uk/court-of-protection